

**ORISSA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN
UNIT-VIII, BHUBANESWAR - 751 012

Present: Shri K.C. Badu, Member
 Shri B.K. Misra, Member
 Shri B. K. Das, Chairperson

Case No.02/2011

Shri Shayama Somani	Petitioner
Vrs.		
E.E., JED, Jeypore, SOUTHCO	Respondent

In the matter of: U/s. 142 of the Electricity Act, 2003.

For the Petitioner: Shri B. K. Nayak, Advocate on behalf of the petitioner

For the Respondent: Shri V. Bhaskar Rao, E.E.(Elect), JED, Jeypore, SOUTHCO

ORDER

Hearing date: 25.04.2011

Order date: 05.05.2011

The present petition is filed by the petitioner under Section 142 of the Electricity Act, 2003 for implementation of the judgment/order dated 13.08.2010 passed by the Ombudsman-II in consumer Case No. OMB-(II)(S)-09 of 2010. Shri B. K. Nayak, Advocate on behalf of the petitioner and Shri V. Bhaskar Rao, E.E.(Elect), JED, Jeypore, SOUTHCO are present. The reply filed by the petitioner to the objection of the Respondent is taken into record.

2. Heard the parties at length.
3. Shri B. K. Nayak, Advocate on behalf of the petitioner submitted that the order dated 13.08.2010 of the learned Ombudsman-II passed in Case No. Omb-II(S)-09/2010 has not been complied by the respondent. He further submitted that even though the respondent has submitted a revised bill but the details of the calculation on the basis of which the bill has been revised, has not been submitted to the petitioner. He questioned the correctness of the revised bill submitted by the respondent. He also further

submitted that as per the OERC Distribution (Conditions of Supply) Code, 2004, if it is found that the consumer has paid excess, the same shall have to be refunded by way of adjustment in subsequent bills along with interest on the excess amount paid by the consumer. He further submitted that even though, the learned Ombudsman has directed for remunerative calculation of the service connection, the same has not been complied with by the respondent and as such has violated the order of the Ombudsman-II for which he is liable to be proceeded against u/s 142 of the Electricity Act, 2003.

4. Refuting the contention of the petitioner, the respondent stated that he has complied the order of the Ombudsman as has been submitted in para 11 of its reply dated. 14.04.2011. As regard the calculation of the remunerativeness, the respondent submitted that as per the order of the Ombudsman, made in para 4, the consumer is required to supply the details of actual investment along with supporting documents to the licensee, so that the licensee after verification of earlier information available with him (while receiving 6% inspection charge) will work out remunerative calculation. This has not been complied by the petitioner.
5. Heard the learned counsel for the petitioner and the respondent and also perused the records filed by both the parties. The Commission in a proceeding under Section 142 of the Electricity Act, 2003 is to consider as to whether there has been a deliberate attempt not to comply with the order passed by the Ombudsman-II. If it is found that the order has not been complied, then the Commission would take action as provided u/S. 142 of the Act.
6. In the instant case, the Commission prima-facie is satisfied that the order of the Ombudsman-II has been substantially complied with by the respondent. The contention of the petitioner is that the bills which have been revised has not been done properly, can not be adjudicated by the Commission while deciding a case u/S. 142 of the Act. Since, the respondent by way of an affidavit has stated that the order of the Ombudsman-II has already been complied, there is no occasion for the

Commission to proceed further in the present case to verify the correctness of the revised bill.

7. However, keeping in view the contention made by the learned counsel appearing for petitioner, that the bills which have been revised, is not acceptable to the party, we are directing the Ombudsman-II to check the correctness of the revision of bill in accordance with its order passed on 13.08.2010 by the Ombudsman in Case No. Omb-(II)(S)(5)-09/2010.
8. With regard to the remunerative calculation of the service connection constructed by the petitioner as per the approved estimate of the licensee, we advise the petitioner to submit the details of actual expenditure along with supporting documents, if any, within 45 days of the issue of this order. We also like to know from the licensee whether it had taken up with the party to submit the actual expenditure after completion and charging of the said service connection, so that the provisional 6% supervision charges collected by them as per the estimate could have been adjusted as per actuals? In case this has not been done, either the licensee accepts the details of actual expenditure now to be submitted by the petitioner or calculate the remunerative calculation as per the sanctioned estimate amount whichever is higher. The remunerative calculation along with the observation of the licensee that the line is remunerative or not, and if so, if any refund is due to the petitioner shall be submitted to the Ombudsman-II for his verification and acceptance within 1 month of the receipt of the details.
9. With the above observation the case is disposed of.
10. A copy of this order is marked to Ombudsman-II.

(B.K. Misra)
Member

(K.C. Badu)
Member

(B. K. Das)
Chairperson